

UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

HERBERT MANYGOAT,

Petitioner,

v.

Civ. No. 21-0683 KG/GJF

NEW MEXICO SUPREME COURT,
et al.,

Defendants.

ORDER OF DISMISSAL

This matter comes before the Court following Petitioner Herbert Manygoat's failure to prosecute his Petition Under 28 U.S.C. § 2254 for a Writ of Habeas Corpus (Doc. 1) ("Petition"). On September 28, 2022, U.S. Magistrate Judge Gregory J. Fouratt ordered Petitioner to file a second amended habeas corpus petition and gave him 30 days to do so. (Doc. 17). When Petitioner failed to comply, Judge Fouratt then ordered him to show cause why this case should not be dismissed and gave him until November 30th to do so. (Doc. 18). That order "expressly cautioned [Petitioner] that his failure to comply with [the order to show cause] will result in the **DISMISSAL** of this action." *Id.* (emphasis original). Again, Petitioner failed to timely comply or, indeed, to file anything in this case.

Given that Petitioner failed to show cause for his inaction or otherwise comply with the Court's order, the Court will dismiss the Petition under Federal Rule of Civil Procedure 41(b) for "failure to prosecute [and] comply with the . . . court's orders." *Olsen v. Mapes*, 333 F.3d 1199, 1204 n.3 (10th Cir. 2003).

It is therefore ordered that that the Petition (Doc. 1) is **DISMISSED** without prejudice. The Court will enter a separate judgment closing this case.

It is further ordered that Respondent's Motion to Dismiss for Lack of Prosecution (Doc. 19)
is **DENIED AS MOOT**.

IT IS SO ORDERED.


UNITED STATES DISTRICT JUDGE